

**CUMMINGS & LOCKWOOD LLC**

Four Stamford Plaza  
107 Elm Street  
Stamford, CT 06902  
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**TRANSMIT THE ATTACHED TO**

Date: July 1, 2002

Name: Ms. McDowell  
Company: U.S. Patent & Trademark Office  
Fax: 703.308.7749  
Confirming No: 703.308.9477

Name:  
Company:  
Fax:  
Confirming No:

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Company:  
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Name:  
Company:  
Fax:  
Confirming No:

**FAX COVER SHEET INFORMATION**

'02 JUL 1 PM 4:42

From: Jean McCue  
Phone: 203.351.4438  
Email: jmcue@cl-law.com  
Personal Fax: 203-351.4535

Client No.: 945505.0019  
Infortext: 3051  
Pages including cover sheet: 15  
Confirming No.: 203.351.4372

**COMMENTS**

Re: Serial No. 09/844,426

Dear Ms. McDowell

In response to your telephone call, I am forwarding herewith the Petition to Revive Unavlidably Abandoned Patent Application submitted via facsimile on March 12, 2002.

Thank you.

Jean McCue

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

STAMFORD | HARTFORD | GREENWICH | NEW HAVEN | WEST HARTFORD | NAPLES | BONITA SPRINGS

JUL 01 2002 4:42 PM FR CUMMINGS &amp; LOCKWOOD 351 4534 TO 91703087749 P.01

CUMMINGS & LOCKWOOD

JOB #370

DATE	TIME	TO/FROM	MODE	MIN/SEC	PGS	STATUS
001	3/12 14:04	917033087749	EC--S	03' 28"	013	OK

*A Division of  
Professional Corporations*

**CUMMINGS & LOCKWOOD**

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Stamford  
Hartford  
Greenwich  
New Haven  
West Hartford  
Naples  
Bonita Springs

**TRANSMIT THE ATTACHED TO**

Date: March 12, 2002

Name: Examiner Doshie Day  
Company: U.S. Patent & Trademark Office  
Fax: 703-308-7749  
Confirming No.: 703-308-9477

Name:  
Company:  
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Confirming No.:

Name:  
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Confirming No.:

Name:  
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Confirming No.:

**FAX COVER SHEET INFORMATION**

From: Daniel F. Coughlin, Ph.D.  
Phone: 203-351-4622  
Email: dcoughlin@cl-law.com  
Personal Fax: 708-5613

Client No.: 945505.0019  
Infortext: 1314  
Pages including cover sheet: 14  
Confirming No.: 203-351-4372

**COMMENTS**

Re: Serial No.: 09/844,426  
Petition to Revive Unavoidably Abandoned Patent Application

We are sending herewith a Petition to Revive Unavoidably Abandoned Patent Application under 37 C.F.R. Section 1.137(a) and supporting papers.

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/844,426	08/07/2000	Robert H. Zimmer	03187-P0006B

CONFIRMATION NO. 3123

RESEND COVER LETTER



\*0000000007541367\*

24126  
ST. ONGE STEWARD JOHNSTON & REENS, LLC  
986 BEDFORD STREET  
STAMFORD, CT 06905-5619

Date Mailed: 02/27/2002

COVER LETTER FOR RESENDING CORRESPONDENCE

A courtesy copy of the Notice mailed on 07/03/2001 is enclosed. The time period for reply continues to run from the mail date of that Notice.

*A copy of this notice MUST be returned with the reply.*

Customer Service Center  
Initial Patent Examination Division (703) 308-1202  
PART 1 - ATTORNEY/APPLICANT COPY



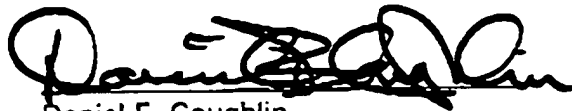
In accordance with the applicable requirements of 37 C.F.R. §1.137(a), this Petition is accompanied by a Statement of Facts in Support of the Petition to Revive by the undersigned, Daniel F. Coughlin, Attorney for Applicant. Petitioner confirms that the abandonment was inadvertent, unintended, and entirely without intent of any kind to delay, deceive, or otherwise interfere with the routine and orderly conduct of the prosecution process.

Further, in accordance with the applicable requirements, the following papers are enclosed herewith.

- (i) Response to Notice of Missing Parts
- (ii) Signed Declaration, Power of Attorney, and Petition;
- (iii) Copy of the Missing Parts of Non Provisional Application mailed July 3, 2001;
- (iv) Copy of Letter for Resending Correspondence dated February 27, 2002; and
- (v) Statement of Facts in Support of Petition to Revive.

Authorization is hereby given to charge all fees due to Deposit Account No. 11-0231.

Respectfully submitted,

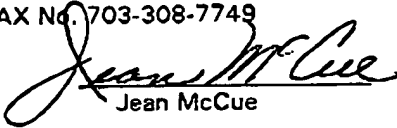


Daniel F. Coughlin  
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700 State Street  
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New Haven, CT 06509-1960  
(203) 351-4622

Date:

.stmLib1:936948.1 03/12/02

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Robert H. Zimmer	<u>Certificate of Facsimile Transmission</u>  I hereby certify that this Petition to Revive Unavoidably Abandoned Patent Application Under 37 C.F.R. § 1.137(b) and all papers referred to therein was this 12th day of March 2002 delivered by facsimile transmission to BOX DAC, Commissioner for Patents, Washington, DC 20231, Att: Doshie Day, FAX No. 703-308-7749   Jean McCue
Serial No.:	09/844,426	
Filing Date:	08/07/2000	
Group Art Unit	unassigned	
Examiner	unassigned	
Title of Application:	A PROCESS TO IMPROVE THE ORAL ABSORPTION OF POLYPEPTIDE DRUG SUBSTANCES AND OTHER POORLY ORALLY ABSORBED DRUGS	

**PETITION TO REVIVE UNAVOIDABLY ABANDONED  
PATENT APPLICATION UNDER 37 C.F.R. §1.137(a)**

March 12, 2002

Via Facsimile 703-308-7749

Attention: Doshie Day

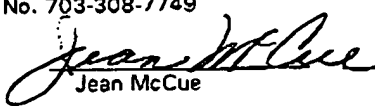
Box DAC  
Commissioner for Patents  
Washington, D.C. 20231

Sir:

The above-identified application became abandoned as a result of Applicant's failure to file a timely response to the Missing Parts of Non Provisional Application mailed July 3, 2001.

Attorney for Applicant hereby respectfully petitions to revive this application as a pending application, under the provisions of 37 C.F.R. §1.137(a), on the grounds that the abandonment was fully unavoidable.

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Robert H. Zimmer	<b>Certificate of Facsimile Transmission</b>  I hereby certify that this Statement of Facts in Support of Petition to Revive an Unavoidably Abandoned Patent Application Under 37 C.F.R. § 1.137(b) and all papers referred to therein was this 12th day of March 2002 delivered by facsimile transmission to BOX DAC, Commissioner for Patents, Washington, DC 20231, Att: Doshie Day, FAX No. 703-308-7749   Jean McCue
Serial No.:	09/844,426	
Filing Date:	08/07/2000	
Group Art Unit	unassigned	
Examiner	unassigned	
Title of Application:	<b>A PROCESS TO IMPROVE THE ORAL ABSORPTION OF POLYPEPTIDE DRUG SUBSTANCES AND OTHER POORLY ORALLY ABSORBED DRUGS</b>	

**STATEMENT OF FACTS IN SUPPORT OF PETITION TO REVIVE  
 AN UNAVOIDABLY ABANDONED PATENT APPLICATION  
UNDER 37 C.F.R. §1.137(a)**

March 12, 2002

VIA FACSIMILE: 703-308-7749

Attention: Doshie Day

12 March 2002

Box DAC  
 Commissioner for Patents  
 Washington, D.C. 20231

Sir:

1. I, Daniel F. Coughlin, the undersigned, am an attorney with the law firm of Cummings & Lockwood, Stamford, Connecticut, and have been appointed with Power of Attorney in the above-identified application.

2. The subject application was filed on August 7, 2000 as a non-provisional utility application.

3. At the time the application was filed, I was an attorney with the law firm of St. Onge, Steward, Johnston & Reens LLC, of Stamford, CT ("St. Onge").

4. On November 13, 2000, a filing receipt was received indicating that the application had been assigned a provisional application number, 60/223,374, apparently due to an administrative error on the part of the USPTO. This receipt was mailed to St. Onge.

5. On January 17, 2001, a Petition to Correct Status To Utility Application was filed.

6. On May 4, 2001, a Notice of New Assigned Application Number was mailed assigning the subject application a new application serial number, 09/844,426. This notice was mailed to St. Onge.

7. In late May of 2001, the undersigned attorney left St. Onge and joined the law firm of Cummings & Lockwood.

8. In August of 2001, this file and numerous other files relating to the same client were transferred from St. Onge to Cummings & Lockwood. Docketing of all transferred matters transferred was completed by September 2001.

9. Subsequent to the transfer of the files, Ms. Jean McCue, the administrative assistant of the undersigned attorney, telephoned the Customer Service Center of the USPTO, which call was answered by a Ms. Robinson. A status check of the application was requested but Ms. McCue was informed by the USPTO that the computers were down and that the status check could not be performed at that time. Ms. McCue left a return phone number with Ms. Robinson who said she would call back when the computers were back up. No return phone call was received.

10. On January 4, 2002 Ms. McCue again called the Customer Service Center and a Ms. Janice Burst took her call. She was able to check the records and informed Ms. McCue that a Missing Parts had been mailed out on July 3, 2001 to the St. Onge address. Ms. McCue explained that the Missing Parts Notice had not been received. Ms. Burst said she would check with her supervisor and call back.



11. This was the first time the undersigned attorney actually knew that a Notice of Missing Parts had been issued and mailed.

12. At 12:30pm on January 4, 2002, Ms. Burst returned the call and said that she had checked with her supervisor and that another Missing Parts would be mailed with a two month deadline. Ms. McCue requested that the Missing Parts Notice be faxed to our office but Ms. Burst preferred to order the file and mail out the Notice.

13. The undersigned attorney then wrote to the Applicant, Robert H. Zimmer, on January 11, 2002, forwarding to him a Declaration, Power of Attorney and Petition form for his signature.

14. Several e-mails were sent to the docketing clerk, Ms. Alice S. Jones, at St. Onge (January 16 and February 19, 2002) requesting information regarding the expected Notice of Missing Parts.

15. Ms. Jones confirmed on February 20, 2002 that St. Onge had no record of having received a Notice of Missing Parts for the subject case, either recently or in July, and that all correspondence, according to standard practice at St. Onge, regarding the transferred files was forwarded as received.

16. On February 26, 2002, Ms. McCue again called the Customer Service Center and a Ms. DeShawn Durham took her call. Ms. McCue explained that she had spoken to Ms. Burst regarding the above-referenced application but no Missing Parts Notice had been received. Ms. Durham informed her that Ms. Burst was on extended leave and, according to the computer records, the file had never been ordered, contrary to what Ms. Burst had indicated. Ms. Durham said she would order the file and get back to Ms. McCue as soon as it was received.

17. Ms. Durham called back on February 27, 2002 and said she had the file and would fax a copy of the Notice of Missing Parts to us. Ms. Durham also indicated that, due to a lack of response to the original Notice, the application had gone abandoned and that we should contact a Ms. Linda McDowell in the Abandonment Section.

18. This was the first notice the undersigned attorney received concerning the abandonment. It was only through the diligence of the undersigned

attorney that the fact of abandonment was discovered at this stage. To date, no Notice of Abandonment has been received at either St. Onge or Cummings & Lockwood.

19. The Missing Parts Notice, together with a copy of the filing receipt, was received from the USPTO on February 27, 2002 *via* facsimile.

20. In the handling of correspondence with the USPTO, Cummings & Lockwood follows regularly established procedures including having a single address for all correspondence directed to a docketing paralegal with primary responsibility for maintenance of the firm's USPTO docket for all firm offices with patent practitioners.

21. St. Onge, although a much smaller firm, has similar standard procedures that it follows with regard to the handling of communications with the USPTO. Ms. Jones, as mentioned above, has the primary responsibility at St. Onge for maintenance of the USPTO docket for active matters.

22. After the undersigned moved his practice to Cummings & Lockwood, St. Onge routinely forwarded all correspondence concerning those files transferred from St. Onge to Cummings & Lockwood.

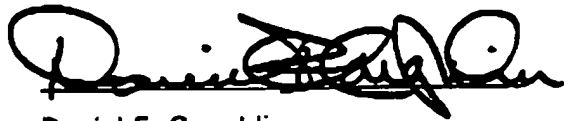
23. St. Onge has no record of having received any correspondence relating to the subject application subsequent to the files being transferred to Cummings & Lockwood.

24. Similarly, Cummings & Lockwood has no record of having received any communication concerning this file, either directly from the USPTO, or indirectly through St. Onge, until receipt of the facsimile transmission indicated in paragraph 20, above.

25. Because the undersigned attorney was unaware of the original mailing of the Notice of Missing Parts, it was impossible to prepare a timely response. Consequently, the application has gone abandoned.

26. Due to the situation regarding transfer of files from St. Onge to Cummings & Lockwood, and non-receipt of the Notice at St. Onge, as well as the USPTO's initial inability to inform the undersigned of the status of the application when inquiry was first made, the abandonment of the subject application was unavoidable.

Respectfully submitted,



Daniel F. Coughlin  
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Stamford, CT 06904-0120  
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.StmLibl:936992.1 03/12/02

☒ (Check if applicable) I/We hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

Prior Provisional Application(s)

60/147,749	August 24, 2001
(Application Number)	(Filing Date)
(Application Number)	(Filing Date)

(Note: When the nonprovisional application is entitled to an earlier U.S. effective filing date of one or more provisional applications under Title 35, United States Code § 119(e), a statement such as "This application claims the benefit of U.S. Provisional Application No. \_\_\_\_\_, filed \_\_\_\_\_, and U.S. Provisional Application No. \_\_\_\_\_, filed \_\_\_\_\_," should appear as the first sentence of the description. In view of this requirement, the right to rely on a prior application may be waived or refused by an applicant by refraining from inserting a reference to the prior application in the specification of the later one.)

☐ (Check if applicable) I/We hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I/we acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S. Application(s)


(Application Serial No.)	(Filing Date)	Status (Patented, pending, abandoned)
(Application Serial No.)	(Filing Date)	Status (Patented, pending, abandoned)

☐ (Check if applicable) I/We hereby authorize the U.S. attorneys or agents named herein to accept and follow instructions from \_\_\_\_\_ as to any action to be taken in the Patent and Trademark Office regarding this application without direct communication between the U.S. attorneys or agents named herein and myself/ourselves. In the event of a change, I/we will notify in writing the U.S. attorney or agent named herein.

☐ (Check if applicable) In this continuation-in-part application, insofar as the subject matter of any of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application.

I/We hereby declare that all statements made herein of my/our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Robert H. Zimmer	<u>Certificate of Facsimile Transmission</u> I hereby certify that this Response To Notice To File Missing Parts and all papers referred to therein was this 12th day of March 2002 delivered by facsimile transmission to BOX DAC, Commissioner for Patents, Washington, DC 20231, Att: Doshie Day FAX No. 703-308-7749  Jean McCue
Serial No.:	09/844,426	
Filing Date:	08/07/2000	
Group Art Unit	unassigned	
Examiner	unassigned	
Title of Application:	A PROCESS TO IMPROVE THE ORAL ABSORPTION OF POLYPEPTIDE DRUG SUBSTANCES AND OTHER POORLY ORALLY ABSORBED DRUGS	

March 12, 2002

BOX Missing Parts  
 Commissioner for Patents  
 Washington, DC 20231

205 - 65  
 103 - 78

Attention: Customer Service Center  
 Initial Patent Examination Division

## RESPONSE TO NOTICE TO FILE MISSING PARTS

Sir:

In response to the Notice to File Missing Parts dated July 3, 2001 (copy enclosed), Applicant submits herewith in connection with the above-identified patent application a Declaration, Power of Attorney, and Petition signed by Applicant.

Authorization is hereby given to charge the filing fees to Deposit Account No. 11-0231 and also to charge any other fees due to Deposit Account No. 11-0231.

02 01:2201  
 01 01:2051  
 12/04/2002 TSTOKES 00000004 110231  
 09/04/426  
 65.00 CH  
 70.00 CH

Respectfully submitted,

By:   
 Daniel F. Coughlin, Reg. No. 36,111  
 Cummings & Lockwood  
 P. O. Box 1960  
 New Haven, CT 06509-1960  
 Tele: (203) 351-4622

.stmLib1:936728.1 03/02/02